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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/072,479	02/07/2002	Lance R. Reidhead	ADVENT006US	1169

28722 7590 05/09/2006

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EXAMINER
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VU, NGOC K

ART UNIT	PAPER NUMBER
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2623

DATE MAILED: 05/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/072,479	REIDHEAD ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Ngoc K. Vu	2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>8/9/02, 12/23/03</u> | 6) <input type="checkbox"/> Other: ____  |

## **DETAILED ACTION**

### ***Claim Objections***

1. Claim 1 is objected to because of the following informalities: it appears that the terms "the downstream power loss" in line 9 referred to "the downstream power loss metric" which are previously defined in line 8. Appropriate correction is required.

2. Claim 1 is objected to because of the following informalities: it appears that the terms "the power information" recited in line 25 referred to "the upstream power information".

Appropriate correction is required

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 is indefinite because there is no antecedent basis for the limitation "the received signal" in line 12. Appropriate correction is required.

Claim 1 is indefinite because it is unclear which "the selected upstream channel" recited in line 17 referred to. It is noted that the terms "a selected upstream channel" are previously defined in line 7 and line 15. Appropriate correction is required.

Claim 1 is indefinite because there is no antecedent basis for the limitation "the downstream channel" in lines 18-19. Appropriate correction is required.

Claim 1 is indefinite because there is no antecedent basis for the limitation "the upstream channel" in line 24. Appropriate correction is required.

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Claim 2 is indefinite because there is no antecedent basis for the limitations "the downstream noise level" in line 3, and "the upstream noise level" in line 5. Appropriate correction is required.

Claim 11 is indefinite because it is unclear whether the limitation "corresponding upstream channel power information" recited in line 11 and lines 15-16 is the same. Appropriate correction is required.

Claim 11 is indefinite because it is unclear whether the limitation "a predetermined downstream test signal" recited in line 6 and the limitation "a downstream test signal" recited line 17 are different or not. Appropriate correction is required.

Claim 19 is indefinite because there is no antecedent basis for the limitation "the downstream channel" in line 8. Appropriate correction is required.

Claim 19 is indefinite because there is no antecedent basis for the limitation "the upstream channel" in line 20. Appropriate correction is required.

Claim 19 is indefinite because there is no antecedent basis for the limitation "the predetermined upstream power level" in lines 21-22. Appropriate correction is required.

Claims 1, 2, 11, and 19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite, accordingly, claims 3-10, 12-18, and 20-28 are also rejected under 35 U.S.C. 112, second paragraph, based on their dependency.

#### ***Allowable Subject Matter***

5. Claims 1-28 would be allowable if rewritten or amended to overcome the objection(s) and the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

#### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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Geile et al. (US 6,467,092 B1) teach a method for adjusting upstream power levels in a communications system having a headend and a plurality of service units.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ngoc K. Vu whose telephone number is 571-272-7306. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Miller can be reached on 571-272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Ngoc K. Vu  
Primary Examiner  
Art Unit 2623

May 8, 2006